

and proceedings ensued as indicated below:

#### FOREST ROADS AND TRAILS

For carrying out the provisions of section 23 of the Federal Highway Act approved November 9, 1921 (23 U.S.C. 23), including not to exceed \$59,500 for departmental personal services in the District of Columbia, \$10,000,000, which sum consists of the balance of the amount authorized to be appropriated for the fiscal year 1939 by the act approved June 16, 1936 (Stat. 1520), and \$3,000,000 of the amount authorized to be appropriated for the fiscal year 1940 by the act approved June 8, 1938 (52 Stat. 635), to be immediately available and to remain available until expended: *Provided*, That this appropriation shall be available for the rental, purchase, or construction of buildings necessary for the storage of equipment and supplies used for road and trail construction and maintenance, but the total cost of any such building purchased or constructed under this authorization shall not exceed \$7,500.<sup>(11)</sup>

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the paragraph that this is legislation on an appropriation bill providing for the construction of a building at a limit beyond that authorized by law.

THE CHAIRMAN:<sup>(12)</sup> Does the gentleman make the point of order against the proviso or against the entire paragraph?

MR. TABER: Against the paragraph.

11. The latter provision could be considered an interference with executive discretion, therefore legislation.
12. Wright Patman (Tex.).

THE CHAIRMAN: Does the gentleman from Missouri desire to be heard on the point of order?

MR. [CLARENCE] CANNON of Missouri: I may say, Mr. Chairman, that this provision in the bill is the only limiting authority. If the gentleman can cite us to some other authority establishing the limitation, I should be pleased to have the citation. There is no other limitation, Mr. Chairman, and the point of order is not well taken.

MR. TABER: There is no authorization for it at all.

THE CHAIRMAN: The point of order is sustained.

## § 46. Other Subjects

### *Budget Adjustments by Corporations and Agencies*

**§ 46.1 A section of the government corporations appropriation bill providing a procedure by which agencies, in order to meet emergencies arising after approval of the budget, could adjust their budgets to provide for programs "authorized by law and not specifically set forth in the Budget," was held to be legislation on an appropriation bill.**

On June 13, 1946,<sup>(13)</sup> during consideration in the Committee of

13. 92 CONG. REC. 6876, 6877, 79th Cong. 2d Sess.

the Whole of the government corporations appropriation bill (H.R. 6777), the following point of order was raised:

MR. [FRANCIS H.] CASE [of South Dakota]: Mr. Chairman, I desire to make a point of order against section 302 of the bill on the ground that it is legislation on an appropriation bill and violates the Government Corporation Control Act.

The language clearly is legislation. It proposes to make it possible for the corporation or agency to change its budget program on getting Presidential approval and initiate programs, authorized by law to be sure but not programmed or set forth in the budget submitted to and approved by the Congress. If it were not for this language it clearly would be a violation of the Government Corporation Control Act for them to do so. The presence of the language in this bill is evidence of the fact that it seeks to make possible doing something which otherwise would not be possible to do under existing law. Therefore, it constitutes legislation on an appropriation bill.

THE CHAIRMAN: <sup>(14)</sup> Does the gentleman from Tennessee desire to be heard on the point of order?

MR. [ALBERT A.] GORE [of Tennessee]: I do, Mr. Chairman.

Mr. Chairman, under the present law, without the passage of this act, the various governmentally owned corporations included in this bill have the authority, with or without approval of the President, to expend funds available to them either through appropria-

tions or through their borrowing authority, for purposes authorized to them by law.

This provision seeks to give the corporations an escape valve, so to speak, to deal with new emergencies or situations not anticipated in their budget, not from the law as it now is, but from the previous sections of the pending bill. Therefore, Mr. Chairman, section 302 gives to the corporations no authority which they do not now have. It does give to the corporations, Mr. Chairman, some limited authority which they are denied in previous sections of the bill. . . .

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from South Dakota makes the point of order against section 302 of the pending bill that it is legislation without authority of law on an appropriation bill. That section is as follows:

Sec. 302. In order to meet emergencies or contingencies arising subsequent to approval of the Budget and not provided for in the Budget program, a corporation or agency covered by the provisions of this act may, with the approval of the President, adjust its budget program to provide, within the limits of available funds and borrowing authority, for the immediate initiation of programs authorized by law and not specifically set forth in the Budget: *Provided*, That the new program shall be promptly transmitted to the Congress as an amendment to the Budget: *Provided further*, That nothing in this section shall be construed as authority for increasing the amount available for administrative expenses under any limitation on such expenses.

The appropriation under consideration is being made under Public, 248,

14. William M. Whittington (Miss.).

Seventy-ninth Congress, the Government Corporation Control Act.

Section 2 of the act declares it to be the policy of the Congress of the United States to scrutinize the operations of the Government corporations and to provide current financial control thereof.

Section 103 provides that the budget programs of the corporations as authorized in section 102 shall be transmitted to the Congress by the President as a part of the annual Budget for the consideration of the Congress. Section 103 further provides that amendments to the annual Budget programs may be submitted from time to time.

Section 104 provides in part, and I quote:

The provisions of this section shall not be construed as preventing wholly owned Government corporations from carrying out and financing their activities as authorized by existing law, nor shall any provisions of this section be construed as affecting in any way the provisions of section 26 of the Tennessee Valley Authority Act, as amended.

The Chair is of the opinion that when the Budget of the President has been transmitted to the Congress and when that Budget has been considered and finally approved by Congress the only way a change can be made in the Budget is by an amendment to be subsequently passed by the Congress. That procedure certainly embraces the matter of administrative expenses. . . .

Section 302 of the pending bill provides for adjustments or approvals or amendments not by the Congress and, in fact, without any action by Congress. The said section provides for a

procedure that is not contemplated under either the Budget and Accounting Act of 1921 or the Government Corporation Control Act, and is, therefore, legislation on an appropriation bill in violation of the rules of the House. The Chair is therefore constrained to sustain the point of order. The point of order is sustained.

### ***Elaborating on Name of Dam; Descriptive Language***

**§ 46.2 An amendment proposing to insert the words “known as ‘Rankin Dam’” following an appropriation for Pickwick Landing Dam was held to be legislation and not in order on an appropriation bill.**

On May 8, 1936,<sup>(15)</sup> during consideration in the Committee of the Whole of a deficiency appropriation bill (H.R. 12624), a point of order was raised against the following amendment:

MR. [AARON L.] FORD of Mississippi: Mr. Chairman, I offer another amendment.

The Clerk read as follows:

Page 19, line 2, after the words “Pickwick Landing Dam”, insert the following: “(known as ‘Rankin Dam’).”

MR. [JOHN J.] MCSWAIN [of South Carolina]: Mr. Chairman, I make a point of order on the amendment that

15. 80 CONG. REC. 6965-67, 74th Cong. 2d Sess.

it is legislation on an appropriation bill. It is evidently an attempt to change the name and call it "Rankin Dam." It is in the teeth of legislation that has been attempted time and time again. There are bills before the Committee on Military Affairs to change the name of this dam to "Rankin Dam."

MR. [HAROLD] KNUTSON [of Minnesota]: I should like to ask the gentleman if it is not customary to wait until the man is dead before they name a dam for him?

MR. MCSWAIN: Yes; it is.

THE CHAIRMAN:<sup>(16)</sup> Does the gentleman from Mississippi wish to be heard on the point of order?

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, if the Chair will permit.

THE CHAIRMAN: The Chair recognizes the gentleman from Missouri.

MR. CANNON of Missouri: Mr. Chairman, this amendment is not legislation. It is language merely descriptive, and such amendments have been repeatedly held not to be legislation.

I recall two decisions on this point. They were made by one of the greatest parliamentarians who has served in the House, James R. Mann, of Illinois.

The first was made in 1905 when an amendment was offered, I think, to the Naval bill.

The language provided that ships or armament should be of "native manufacture." . . . Mr. James R. Mann, of Illinois, held that those words were merely descriptive and that it was not legislation.

MR. [BERTRAND H.] SNELL [of New York]: Mr. Chairman, will the gentleman yield:

MR. CANNON of Missouri: I yield with pleasure to the distinguished leader on the other side of the House.

MR. SNELL: If the words are merely descriptive, why will they have the effect of changing the name of the dam?

MR. CANNON of Missouri: They do not change the name of the dam. It is not proposed to change the name of the dam.

MR. SNELL: But is not that the intention? I call it legislation. Is not that the intention of the amendment?

MR. CANNON of Missouri: The gentleman from New York, being one of the ablest parliamentarians in the House, knows that the Chairman of the Committee of the Whole may not speculate as to the intention of an amendment. He must predicate his decision on the amendment before him in the language in which it is written. He cannot go back of what is on the face of it to surmise what is the purpose of a Member in offering an amendment. This amendment merely further describes the Pickwick Landing Dam; it does not propose a change in the name; it merely adds the descriptive language "known as the Rankin Dam." . . .

THE CHAIRMAN: The Chair is prepared to rule. The Chair entirely agrees with the gentleman from Missouri [Mr. Cannon], with reference to the use of descriptive words. Therefore, the question in the mind of the present occupant of the chair is whether the amendment is descriptive or whether it constitutes legislation. Without regard to whether or not it brings about a change in the name of the dam from "Pickwick Landing Dam" to "Rankin Dam", it is the opinion of the Chair, with profound respect for the opinion

16. John W. McCormack (Mass.).

of the gentleman from Missouri, one of the outstanding parliamentarians of all time, that the amendment does not constitute descriptive language; that it constitutes legislation. It is an addition to the language used in this bill. The Chair would rule the same whether or not the legislation referred to by the gentleman from South Carolina (Mr. McSwain) contained the words "Pickwick Landing Dam" or not, because that name is included in the bill now before the House.

Profoundly respecting the views of the gentleman from Missouri, and with considerable hesitation in disagreeing with him, it is the opinion of the Chair that the point of order is well taken, and the Chair therefore sustains the point of order.

### ***Contract Policy; "Hereafter"***

#### **§ 46.3 To an appropriation bill, an amendment requiring the Civil Aeronautics Authority to award contracts to the highest bidder after previously advertising for sealed bids, was held to be legislation and therefore not in order.**

On July 12, 1956,<sup>(17)</sup> during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 12138), a point of order was raised against the following amendment:

Amendment offered by Mr. [George W.] Andrews [of Alabama]: Page 2,

17. 102 CONG. REC. 12538, 84th Cong. 2d Sess.

after line 24 insert the following center head and new paragraph:

#### *"Contracts for services"*

"Hereafter no contract for services at any airport under the direct jurisdiction of the Civil Aeronautics Administration shall be entered into without previously advertising invitations for sealed bids based on specifications sufficient to permit full and free competition in the letting of such contracts."

MR. [FRANK T.] BOW [of Ohio]: Mr. Chairman, I make the point of order against the amendment that it is legislation on an appropriation bill.

MR. ANDREWS: Will the gentleman reserve his point of order?

MR. BOW: I will reserve the point of order, Mr. Chairman.

MR. ANDREWS: Mr. Chairman, the purpose of this amendment is simply to require the Civil Aeronautics Authority officials to award contracts to the high bidders. I have in mind a recent contract that was let for a concession at the National Airport. The contract was let by sealed bids. The company that bid the highest rate to the Government was not awarded the contract. The purpose of this amendment is to require the Civil Aeronautics Authority in the future to award contracts to the bidders who will return the highest rate to the Government. . . .

MR. BOW: Mr. Chairman, I insist on my point of order that the amendment is legislation on an appropriation bill.

THE CHAIRMAN:<sup>(18)</sup> The Chair is prepared to rule.

The gentleman from Alabama offers an amendment which in substance

18. Paul J. Kilday (Tex.).

would require that in connection with contracts under the jurisdiction of the Civil Aeronautics Administration sealed bids be required.

The amendment provides for new law; it is not a limitation on the purpose for which funds may be used, and consequently it is legislation on an appropriation bill. The point of order is sustained.

***New Authority for Use of FBI Files and Information***

**§ 46.4 A paragraph in a general appropriation bill providing that certain FBI funds may be used to facilitate the exchange of identification records with bank officials and with state and local governments for employment and licensing purposes if approved by the Attorney General was conceded and held to be legislation in violation of Rule XXI clause 2.**

On May 18, 1972,<sup>(19)</sup> during consideration in the Committee of the Whole of a general appropriation bill (H.R. 14989), a point of order was raised against the following provision:

The Clerk read as follows:

The funds provided for Salaries and expenses, Federal Bureau of Investigation, may be used, in addition to those uses authorized thereunder, for the exchange of identification records with officials of federally

chartered or insured banking institutions to promote or maintain the security of those institutions, and, if authorized by State Statute and approved by the Attorney General, to officials of State and local governments for purposes of employment and licensing, any such exchange to be made only for the official use of any such official and subject to the same restriction with respect to dissemination as that provided for under the aforementioned appropriation.

MR. [DON] EDWARDS of California: Mr. Chairman, I make a point of order against the paragraph on page 17, lines 1 through 12, since it constitutes legislation on an appropriation bill in violation of clause 2, of rule XXI.

THE CHAIRMAN:<sup>(20)</sup> Does the gentleman from New York desire to be heard.

MR. [JOHN J.] ROONEY of New York: Mr. Chairman, the gentleman from New York must state that this proviso allows the FBI to furnish identification records to officials of federally chartered or insured banking institutions to promote or maintain the security of those institutions. And as it further states:

If authorized by State Statute and approved by the Attorney General, to officials of State and local governments.

This has been done for years. Then one of the judges, and I use the term in its broadest sense, ruled that the FBI could not furnish this information. The other body inserted this proviso last year. We brought the amendment back to the House for a separate vote and it was approved.

19. 118 CONG. REC. 18030, 18031, 92d Cong. 2d Sess.

20. Thomas G. Abernethy (Miss.).

If the gentleman from California (Mr. Edwards) desires to superimpose his views over the majority of the House, and wants to prevent the banks from finding out if they are hiring criminals, he can press his point of order and we shall have to concede the point of order.

THE CHAIRMAN: The gentleman from New York concedes the point of order.

MR. EDWARDS of California: Mr. Chairman, I thank the gentleman for the concession.

THE CHAIRMAN: The point of order is conceded, and the Chair sustains the point of order.

### ***Language of Limitation as Constituting New Authority***

**§ 46.5 Language in an appropriation bill providing that “not to exceed \$2,500 of the funds available . . . for salaries and expenses . . . shall be available for . . . entertainment when authorized by the Secretary,” was held to be legislation and not in order.**

On Apr. 3, 1957,<sup>(1)</sup> during consideration in the Committee of the Whole of the Departments of Labor and Health, Education, and Welfare appropriation bill (H.R. 6287), a point of order was raised against the following provision:

The Clerk read as follows:

1. 103 CONG. REC. 5040, 85th Cong. 1st Sess.

§ 208. Not to exceed \$2,500 of the funds available to the Department for salaries and expenses and not otherwise available for entertainment of officials of other countries or officials of international organizations shall be available for such entertainment when authorized by the Secretary.

MR. [EDGAR W.] HIESTAND [of California]: Mr. Chairman, I make a point of order against this paragraph, that it is legislation on an appropriation bill.

THE CHAIRMAN:<sup>(2)</sup> The gentleman makes his point of order against the entire section?

MR. HIESTAND: Section 208, lines 5 to 9, inclusive.

THE CHAIRMAN: Does the gentleman from Rhode Island care to comment on this point of order?

MR. [JOHN E.] FOGARTY [of Rhode Island]: Mr. Chairman, I must concede the point of order. The purpose of this paragraph is to entertain some of these foreign doctors and scientists who come over here, to reciprocate the entertainment that our people receive when they go over there. If the gentleman wants to strike it out, that is his privilege.

THE CHAIRMAN: Does the gentleman insist on the point of order?

MR. HIESTAND: Mr. Chairman, I do.

THE CHAIRMAN: The Chair sustains the point of order.

### ***Item Veto Authority to President***

**§ 46.6 To a general appropriation bill, an amendment allowing the President to dis-**

2. Aime J. Forand (R.I.).

**approve separate and distinct items of appropriations, was held to be legislation and not in order.**

On Apr. 19, 1950,<sup>(3)</sup> during consideration in the Committee of the Whole of the legislative appropriation bill (H.R. 7786), a point of order was raised against the following amendment:

MR. [KENNETH B.] KEATING [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Keating: On page 29, after line 13, insert a new section reading as follows:

"The total sums appropriated under this chapter shall be reduced to the extent of any separate and distinct item appropriating money which is disapproved by the President."

MR. [CHRISTOPHER C.] MCGRATH [of New York]: Mr. Chairman, I make the point of order that this is legislation on an appropriation bill.

THE CHAIRMAN:<sup>(4)</sup> Does the gentleman from New York (Mr. Keating) desire to be heard on the point of order?

MR. KEATING: I do, Mr. Chairman.

THE CHAIRMAN: The Chair will hear the gentleman.

MR. KEATING: Mr. Chairman, the wording of this amendment is designed

to be, and I believe is, a limitation on the appropriation. As I stated in general debate on the subject, I have introduced a bill which would have the effect of giving the President the power to veto any single item in an appropriation bill which he does not now have. He is forced, therefore, to approve or disapprove the whole bill.

I appreciate that to endeavor to provide for that in this measure would be legislation on an appropriation bill. This, however, is not worded in that way. It provides that the sums appropriated here shall be reduced by the amount of any distinct item which the President feels should be disapproved; in other words, he will have the power under this amendment to join with us, if he is so disposed, in the battle for economy. I believe the amendment as worded, being a limitation, is in order.

MR. MCGRATH: Mr. Chairman, may I call the Chair's attention to the fact that this is a delegation of power from the legislative branch to the executive branch of the Government and is clearly legislative in character.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from New York (Mr. Keating) has offered an amendment which has been reported by the Clerk. The gentleman from New York (Mr. McGrath) has made a point of order against the amendment on the ground it is legislation on an appropriation bill.

The Chair has analyzed the amendment and it appears clearly that the purpose of it is to confer item veto power on the President, which would be legislation on an appropriation bill in that it confers authority and power

3. 96 CONG. REC. 5393, 5394, 81st Cong. 2d Sess.

See also 99 CONG. REC. 4939, 4940, 83d Cong. 1st Sess., May 14, 1953.

4. Jere Cooper (Tenn.).



on the President which he does not have. Under the rules of the House, being legislation on an appropriation bill, it is subject to the point of order, and, therefore, the Chair sustains the point of order.

### ***Authority to Pay Mineral Royalties***

**§ 46.7 Language in an appropriation bill providing that “the Director of the Bureau of Mines is hereby authorized . . . to make suitable arrangements with owners of private property . . . for payment by such owners of a reasonable percentage . . . of the total value of the minerals thereafter produced from such property,” was conceded and held to be legislation on an appropriation bill.**

On May 16, 1946,<sup>(5)</sup> during consideration in the Committee of the Whole of the Interior Department appropriation bill (H.R. 6335), a point of order was raised against the following provision:

The Clerk read as follows:

Investigation and development of domestic mineral deposits, except fuels: For all expenses necessary to enable the Bureau of Mines to investigate, develop, and experimentally mine, on public lands and with the

consent of the owner on private lands, deposits of minerals in the United States . . . \$1,000,000: *Provided*, That the Director of the Bureau of Mines is hereby authorized and directed to make suitable arrangements with owners of private property upon which exploration or development work is performed for payment by such owners of a reasonable percentage, as determined by the Secretary of the Interior, of the total value of the minerals thereafter produced from such property. . . .

MR. [ALBERT S. J.] CARNAHAN [of Missouri]: Mr. Chairman, I make a point of order against certain language in the bill, namely, page 59, starting with line 18 through the word “property” in line 24, on the ground this is legislation on an appropriation bill.

MR. [JED] JOHNSON of Oklahoma: Mr. Chairman, in order to save time the committee concedes the point of order.

THE CHAIRMAN:<sup>(6)</sup> The gentleman from Missouri makes a point of order which is conceded by the gentleman from Oklahoma. The point of order is sustained.

### ***Postal Rates Computation***

**§ 46.8 Language in an appropriation bill changing the formula for computation of postal rates was held to be legislation and not in order.**

On Feb. 20, 1957,<sup>(7)</sup> during consideration in the Committee of the Whole of a general appropriation

5. 92 CONG. REC. 5120, 79th Cong. 2d Sess.

6. Jere Cooper (Tenn.).

7. 103 CONG. REC. 2334, 85th Cong. 1st Sess.

bill (H.R. 4897), a point of order was raised against the following provision:

The Clerk read as follows:

Sec. 204. Amounts contributed by the Post Office Department to the civil service retirement and disability fund, in compliance with section 4(a) of the Civil Service Retirement Act (70 Stat. 747), from appropriations made by this title, or from appropriations hereafter made to the Post Office Department, shall be considered as costs of providing postal service for the purpose of establishing postal rates.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I rise to a point of order.

THE CHAIRMAN:<sup>(8)</sup> The gentleman will state it.

MR. GROSS: Mr. Chairman, I make the point of order that the language contained in section 204, just read, is legislation upon an appropriation bill, that it deals with appropriations not contained in this bill, is not a limitation and therefore in violation of the rules of the House. . . .

THE CHAIRMAN: The Chair has examined the provision against which the point of order is raised. It appears that it is legislation on an appropriation bill. The point of order is sustained.

### ***Authority to Clear Title to Real Estate***

#### **§ 46.9 Language in an appropriation bill making appropriations for roads and trails of the National Park Service,**

8. W. Homer Thornberry (Tex.).

**requiring “title and evidence of title to the lands . . . acquired to be satisfactory to the Secretary of the Interior” instead of the Attorney General, was held to be legislation and not in order.**

On Mar. 16, 1939,<sup>(9)</sup> during consideration in the Committee of the Whole of the Interior Department appropriation bill (H.R. 4852), a point of order was raised against the following provision:

Roads and trails, National Park Service: For the construction, reconstruction, and improvement of roads and trails, inclusive of necessary bridges, in the national parks, monuments, and other areas administered by the National Park Service . . . and pursuant to the authorization of the act of March 3, 1931 (46 Stat. 1490), the title and evidence of title to the lands or interests acquired to be satisfactory to the Secretary of the Interior, \$3,500,000, to be immediately available and to remain available until expended. . . .

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the language in lines 10, 11, and 12, page 118, as follows:

The title and evidence of title to the lands or interests acquired to be satisfactory to the Secretary of the Interior.

It is legislation on an appropriation bill and an attempt to take the duty of passing on the title out of the hands of the Attorney General. . . .

9. 84 CONG. REC. 2893, 76th Cong. 1st Sess.

THE CHAIRMAN:<sup>(10)</sup> Will the gentleman from New York advise the Chair whether the point of order goes only to the language he quoted?

MR. TABER: That is all.

THE CHAIRMAN: The point of order is sustained.

### ***Making Unpaid Fees a Lien Against Real Estate***

#### **§ 46.10 A provision in an Interior Department appropriation bill directing that unpaid charges outstanding against certain lands shall constitute a first lien thereon was held to be legislation and not in order.**

On May 14, 1937,<sup>(11)</sup> during consideration in the Committee of the Whole of the Interior Department appropriation bill (H.R. 6958), a point of order was raised against the following provision:

The Clerk read as follows:

In all, \$2,088,000 to be immediately available, which amount, together with the unexpended balances of funds made available under this head in the Interior Department Appropriation Act, fiscal year 1937, shall remain available until June 30, 1938: *Provided*, That the foregoing amounts may be used interchangeably in the discretion of the Secretary of the Interior, but not more than 10 percent of any specific amount shall be transferred to any

other amount, and no appropriation shall be increased by more than 15 percent: *Provided further*, That the cost of the foregoing irrigation projects and of operating and maintaining such projects where reimbursement thereof is required by law, shall be apportioned on a per-acre basis against the lands under the respective projects and shall be collected by the Secretary of the Interior as required by such law, and any unpaid charges outstanding against such lands shall constitute a first lien thereon which shall be recited in any patent or instrument issued for such lands.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the paragraph. . . .

The last part, beginning in line 20 and running through line 23, provides that unpaid charges shall be a first lien against all of those lands.

I therefore make a point of order against the paragraph.

THE CHAIRMAN:<sup>(12)</sup> Does the gentleman from Oklahoma desire to be heard?

MR. [JED] JOHNSON of Oklahoma: I do not desire to be heard.

THE CHAIRMAN: The gentleman from New York [Mr. Taber] makes a point of order against the paragraph appearing on page 40, beginning in line 6 and extending down to and including line 23.

The Chair invites attention especially to the language appearing in lines 20, 21, 22 and 23, which reads as follows:

Any unpaid charges outstanding against such land shall constitute a first lien thereon which shall be recited in any patent or instrument issued for such lands.

10. Frank F. Buck (Calif.).

11. 81 CONG. REC. 4603, 4604, 75th Cong. 1st Sess.

12. Jere Cooper (Tenn.).

The Chair is of opinion this is legislation on an appropriation bill not authorized under the rules of the House, and therefore sustains the point of order as to the paragraph as a whole.

***Renegotiation Act Incorporated by Reference***

**§ 46.11 To the appropriation for the Tennessee Valley Authority, an amendment proposing to make contracts entered into by the Authority and by the Atomic Energy Commission subject to the Renegotiation Act was conceded to be legislation on an appropriation bill and held not in order.**

On Dec. 15, 1950,<sup>(13)</sup> during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 9920), a point of order was raised against the following amendment, and proceedings ensued as indicated below:

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Case of South Dakota: Page 11 after line 12, insert a new section, as follows:

"RENEGOTIATION OF CONTRACTS

"Sec. 602. (a) All negotiated contracts for procurement in excess of

\$1,000 entered into during the current fiscal year by or on behalf of the Atomic Energy Commission and the Tennessee Valley Authority, and all subcontracts thereunder in excess of \$1,000, are hereby made subject to the Renegotiation Act of 1948 in the same manner and to the same extent as if such contracts and subcontracts were required by such act to contain the renegotiation article prescribed in subsection (a) of such act. Each contract and subcontract made subject to the Renegotiation Act of 1948 by this section shall contain an article stating that it is subject to the Renegotiation Act of 1948. . . ."

MR. [ALBERT A.] GORE [of Tennessee]: . . . Mr. Chairman, the amendment offered by the distinguished and able gentleman from South Dakota, is a lengthy, complicated, and far-reaching one . . . It operates as an amendment of the renegotiation law. . . .

THE CHAIRMAN:<sup>(14)</sup> The gentleman from South Dakota [Mr. Case] has offered an amendment which has been reported. The gentleman from Tennessee [Mr. Gore] has made a point of order against the amendment, on the ground that it contains legislation on an appropriation bill.

MR. CASE of South Dakota: Mr. Chairman, I concede the point of order.

THE CHAIRMAN: The gentleman concedes the point of order, and therefore the Chair sustains the point of order.

***Tennessee Valley Authority Proceeds Applied to Appropriation***

**§ 46.12 Language in an appropriation bill providing funds**

13. 96 CONG. REC. 16672-74, 81st Cong. 2d Sess.

14. Jere Cooper (Tenn.).

**for resource development activities of the Tennessee Valley Authority, stating that part of the funds therefor should be derived from the appropriated funds and part from proceeds of operation, was held to be legislation and not in order.**

On May 28, 1956,<sup>(15)</sup> during consideration in the Committee of the Whole of the Interior Department appropriation bill (H.R. 11319), the following point of order was raised:

MR. [LOUIS C.] RABAUT [of Michigan]: Mr. Chairman, I make a point of order against certain language in the Tennessee Valley Authority paragraph as follows: . . .

. . . On page 3, lines 1 to 3 “, of which \$400,000 shall be derived from this appropriation and \$750,000 shall be derived from proceeds of operations of the Tennessee Valley Authority.”

Mr. Chairman, I make the point of order that all of the language to which I have referred is legislation on an appropriation bill. . . .

THE CHAIRMAN:<sup>(16)</sup> . . . It is clearly legislation on an appropriation bill and the point of order is sustained.

### ***Authority for Secretary to Impose Liens***

#### **§ 46.13 Language in an appropriation bill imposing a**

15. 102 CONG. REC. 8725, 84th Cong. 2d Sess.

16. Jere Cooper (Tenn.).

**charge and lien against Indian lands until certain obligations are paid was held legislation and not in order.**

On May 14, 1937,<sup>(17)</sup> the Committee of the Whole was considering H.R. 6958, an Interior Department appropriation bill. At one point the Clerk read as follows, and proceedings ensued as indicated below:

For the purpose of encouraging industry and self-support among the Indians and to aid them in the culture of fruits, grains, and other crops, \$165,000 . . . *Provided further*, That the Secretary of the Interior is hereby authorized, in his discretion and under such rules and regulations as he may prescribe, to make advances from this appropriation to old, disabled, or indigent Indian allottees, for their support, to remain a charge and lien against their lands until paid: *Provided further*, That not to exceed \$15,000 may be advanced to worthy Indian youths to enable them to take educational courses, including courses in nursing . . . forestry, and other industrial subjects in colleges, universities, or other institutions, and advances so made shall be reimbursed in not to exceed 8 years, under such rules and regulations as the Secretary of the Interior may prescribe.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the paragraph beginning on page 26, line 4. The point of order is

17. 81 CONG. REC. 4598, 4599, 75th Cong. 1st Sess.

that this is legislation on an appropriation bill and it imposes discretionary duties upon the Secretary of the Interior. The language at the bottom of the bill, beginning with "*Provided further*", line 22, and the last proviso are entirely the same. They provide that the Secretary of the Interior shall make rules and regulations and there is no question but what it imposes additional duties upon the Secretary of the Interior all the way through.

In lines 17 and 18 the terms of repayment are made subject to the discretion of the Secretary of the Interior and in lines 9 and 10 it is subject to that same discretion. This is all on page 26. The whole paragraph is subject to discretion and imposes duties upon the Secretary. . . .

THE CHAIRMAN: <sup>(18)</sup> The Chair would like to inquire of the gentleman from Oklahoma as to the authority for the language appearing in lines 1 and 2, page 27, which the Chair will quote:

To remain a charge and lien against their land until paid—

Is there provision in some existing law creating a lien upon these lands, to which this provision refers?

MR. [JED] JOHNSON of Oklahoma: I cannot say there is provision in existing law. The only existing law would be the fact this has been in the bill for several years and, of course, that is not controlling.

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from New York makes a point of order against the entire paragraph beginning in line 4, page 26, extending down to and includ-

ing line 9, page 27. The gentleman from New York [Mr. Taber] in making his point of order invited attention to certain language appearing in lines 10 and 11, page 26, with reference to the discretion of the Secretary of the Interior.

The Chair has examined the act commonly referred to and known as the Snyder Act and invites attention to section 13 of that act, in which the following appears:

Expenditures of appropriations by Bureau of Indian Affairs: The Bureau of Indian Affairs, under the supervision of the Secretary of the Interior, shall direct, supervise, and expend such moneys as Congress may from time to time appropriate for the benefit, care, and assistance of the Indians throughout the United States for the following purposes: General support and civilization, including education; for industrial assistance and advancement and general administration of Indian problems. Further, for general and incidental expenses in connection with the administration of Indian affairs.

It is the opinion of the Chair that the act to which attention has been invited confers upon the Secretary of the Interior rather broad discretionary authority. The Chair is of opinion that the language to which the gentleman invited attention is not subject to a point of order, but that the language to which the Chair invited the attention of the gentleman from Oklahoma with reference to the provisos does constitute legislation on an appropriation bill not authorized by the rules of the House. It naturally follows that as the point of order has to be sustained as to these two provisos, it has to be sustained as to the entire paragraph. The Chair therefore sustains the point of

18. Jere Cooper (Tenn.).

order made by the gentleman from New York.

***Mandating Testimony of Congressmen***

**§ 46.14 To an amendment to a general appropriation bill, an amendment providing that notwithstanding the provisions of any other law, the Constitution or court decisions, no Member of Congress shall refuse to respond to demands for information by executive agencies or private persons or groups was held to be legislation.**

On June 22, 1972,<sup>(19)</sup> during consideration in the Committee of the Whole of a general appropriation bill (H.R. 15585), a point of order was raised against an amendment to an amendment:

Amendment offered by Mr. [William S.] Moorhead [of Pennsylvania]: Page 38 insert between line 6 and line 7 new section:

No part of the appropriations made by this Act shall be expended for the Compensation of any person other than those designated by the President, not to exceed ten persons employed in the White House Office, who refused to appear before any committee of the Congress solely on the grounds of "executive privilege"; nor shall any part of the appropriations made by this Act be expended

to compensate any employee of the Executive Office of the President who is employed in or designated as holding two positions in such Office.

. . . .

The Clerk read as follows:

Amendment offered by Mr. [Garry E.] Brown of Michigan to the amendment offered by Mr. Moorhead: At end of that amendment, insert: "*Provided further*, Notwithstanding the provisions of any other law, the Constitution, or any precedent of the courts, no Member of the Congress shall refuse to answer and appropriately respond to any demand for his presence, his papers, or his records, made by any agency, commission, Department or person of the executive branch, or any proper citizen oriented organization or interested person, making such demand."

MR. [FRANK T.] BOW [of Ohio]: Mr. Chairman, I make a point of order against the amendment to the amendment, and I do not think I need to argue it.

THE CHAIRMAN:<sup>(20)</sup> Does the gentleman from Michigan (Mr. Brown) desire to be heard on the point of order?

MR. BROWN of Michigan: Mr. Chairman, I defer to my very eloquent and intelligent colleague, and I think he makes a good point.

THE CHAIRMAN: The point of order is sustained.

***Veterans Insurance Fund***

**§ 46.15 Language in a supplemental appropriation bill (1) changing existing law regarding certain veterans' insurance funds, (2) specifying**

19. 118 CONG. REC. 22102, 22107, 92d Cong. 2d Sess.

20. John S. Monagan (Conn.).

**accounting procedures to be followed in determining assets, (3) authorizing a future transfer of funds after a determination by the administrator, and (4) providing for the repayment to the Treasury of funds so transferred, was conceded to be legislation and ruled out on a point of order.**

On Apr. 6, 1965,<sup>(1)</sup> during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 7091), a point of order was raised against the following provision:

VETERANS REOPENED INSURANCE FUND

All premiums and collections on insurance issued pursuant to section 725 of title 38, United States Code, shall be credited to the "Veterans reopened insurance fund", established pursuant to that section, and all payments on such insurance and on any total disability provision attached thereto shall be made from that fund, notwithstanding any provisions of that section: *Provided*, That for actuarial and accounting purposes, the assets and liabilities (including liability for repayment of advances hereinafter authorized, and adjustment of premiums) attributable to each insured group established under said section 725, shall be separately determined: *Provided further*, That such amounts of the "Veterans special term insurance fund" as may hereafter

be determined by the Administrator of Veterans' Affairs to be in excess of the actuarial liabilities of that fund, including contingency reserves, shall be available for transfer to the "Veterans reopened insurance fund" as needed to provide initial capital: *Provided further*, That any amounts so transferred shall be repaid to the Treasury, and shall bear interest payable to the Treasury at rates established in accordance with section 725(d)(1) of title 38, United States Code.

MR. [JOHN P.] SAYLOR [of Pennsylvania]: Mr. Chairman, I make a point of order against the language on page 8, line 7 to line 22 inclusive and on page 9, line 1 to line 6 inclusive as being legislation on an appropriation bill and not within the scope of the original language authorizing the reopening of veterans' insurance. . . .

MR. [ALBERT] THOMAS [of Texas]: Mr. Chairman, may I be heard on the point of order?

THE CHAIRMAN:<sup>(2)</sup> The Chair recognizes the gentleman from Texas.

MR. THOMAS: Mr. Chairman, I hope my distinguished friend will not insist upon the point of order. . . . His point of order is good if he insists on it. This is a transfer of funds. This is not an appropriation. . . .

MR. SAYLOR: Mr. Chairman, I must insist on the point of order.

THE CHAIRMAN: The gentleman from Pennsylvania [Mr. Saylor] makes a point of order against the language on page 8, beginning at line 7 down through and including the language on page 9, line 6.

The Chair understands the gentleman from Texas [Mr. Thomas] concedes the point of order.

1. 111 CONG. REC. 7131, 89th Cong. 1st Sess.

2. Oren Harris (Ark.).



The Chair sustains the point of order.

### ***Veterans' Medical Benefits***

#### **§ 46.16 In an appropriation bill, a provision prohibiting an appropriation for the Veterans' Administration to be used for dental treatment, except where certain conditions are determined to have been met, was held to be legislation.**

On Mar. 31, 1954,<sup>(3)</sup> the Committee of the Whole was considering H.R. 8583, an independent offices appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

*Provided*, That no part of this appropriation shall be available for out-patient dental services and treatment, or related dental appliances with respect to a service-connected dental disability which is not compensable in degree unless such condition or disability is shown to have been in existence at time of discharge and application for treatment is made within one year after discharge or by July 27, 1954, whichever is later: *Provided*, That this limitation shall not apply to adjunct out-patient dental services or appliances for any dental condition associated with and held to be aggravating disability from some other service-in-

3. 100 CONG. REC. 4258, 83d Cong. 2d Sess.

curred or service-aggravated injury or disease. . . .

MR. [JAMES P.] SUTTON [of Tennessee]: The point of order is that it is legislation on an appropriation bill. It changes existing law. . . .

THE CHAIRMAN:<sup>(4)</sup> The Chair is prepared to rule.

In the opinion of the Chair, this is legislation upon an appropriation bill and the point of order is sustained.

### ***Veterans' Burial Expenses***

#### **§ 46.17 To an army civil functions appropriation bill, an amendment authorizing payments to next of kin, in lieu of headstones authorized to be placed on veterans' graves, provided proof is furnished that suitable headstones are subsequently placed upon such graves, was held to be legislation and not in order.**

On May 26, 1953,<sup>(5)</sup> during consideration in the Committee of the Whole of the army civil functions appropriation bill (H.R. 5376), a point of order was raised against the following amendment:

The Clerk read as follows:

Amendment offered by Mr. [Henry Frazier] Reams [of Ohio]: On page 2, line 12, after the figures "\$4,870,000", strike the colon, add

4. Louis E. Graham (Pa.).

5. 99 CONG. REC. 5617, 83d Cong. 1st Sess.

comma, and insert the following: “\$850,000 of which may be used to pay to next of kin not exceeding \$25 in lieu of headstone or marker for the grave of any deceased person for which the Secretary of Defense is authorized to furnish a marker or headstone: *Provided*, That the Secretary of Defense receive from the administrator or executor of the estate, or next of kin, proper proof that there has been purchased and placed upon the grave of the veteran a suitable marker or headstone of a value not less than \$25.”. . .

MR. [GLENN R.] DAVIS [of Wisconsin]: Mr. Chairman, I renew the point of order on the ground this is legislation on an appropriation bill.

THE CHAIRMAN:<sup>(6)</sup> The gentleman from Wisconsin makes a point of order that this amendment is legislation on an appropriation bill. Does the gentleman from Ohio desire to be heard?

MR. REAMS: Mr. Chairman, I do not care to be heard on the point of order.

THE CHAIRMAN: The Chair is prepared to rule. The Chair thinks that the amendment offered by the gentleman from Ohio is clearly legislation on an appropriation bill and, therefore, sustains the point of order.

### ***Imposing Penalty for Improper Accounting of Members' Expenses***

#### **§ 46.18 A motion to recommit the legislative branch appropriation bill with instructions to report it back forthwith with an amendment providing, inter alia, a criminal**

**penalty for perjury for improper vouchering of expenditures of funds contained in the bill, was conceded to contain legislation in violation of Rule XXI clause 2 and was ruled out on a point of order.**

On Sept. 1, 1976,<sup>(7)</sup> during consideration in the House of the legislative branch appropriation bill (H.R. 14238), a point of order was raised and sustained against a motion to recommit as indicated below:

The Clerk read as follows:

MR. [R. LAWRENCE] COUGHLIN [of Pennsylvania] moves to recommit the bill, H.R. 14238, to the Committee on Appropriations, with instructions to that Committee to report the bill back to the House forthwith, with the following amendments: On page 7, after line 24, insert the following new section: . . .

“Expenditure of any appropriation contained in this Act, disbursed on behalf of any Member or Committee of the House of Representatives, shall be limited to those funds paid against a voucher, signed and approved by a Member of the House of Representatives, stating under penalty of perjury, that the voucher is for official expenses as authorized by law: *Provided further*, That any Member of the House of Representatives who willfully makes and subscribes to any such voucher which contains a written declaration that it is made under the penalties of perjury and which he does not believe

6. Clifford R. Hope (Kans.).

7. 122 CONG. REC. 28883, 28884, 94th Cong. 2d Sess.

at the time to be true and correct in every material matter, shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$2,000 or imprisoned for not more than five years, or both." . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Speaker, I make a point of order against the motion to recommit. . . .

Mr. Speaker, the motion to recommit falls in violation of the rules against legislation in an appropriation bill. Under the rules of the House, Mr. Speaker, a motion to recommit is subject to the same germaneness tests as any other amendment to a piece of legislation.

Mr. Speaker, I therefore make a point of order against the motion on the grounds that it constitutes an attempt to legislate in an appropriation bill. . . .

On page 3, there is a requirement that any Member who makes a willful statement subscribing any voucher shall be guilty of the penalties of perjury.

This adds essentially a new amendment to the Criminal Code, which most properly can be found in title 18 of the United States Code, and it imposes further, Mr. Speaker, a requirement that such act shall constitute a felony

which will be punishable by not more than \$2,000 or subject to imprisonment of not more than 5 years. . . .

MR. COUGHLIN: Mr. Speaker, I rise in opposition to the point of order that has been raised. . . .

Mr. Speaker, with respect to the point of order addressed to the execution of vouchers under penalties of perjury, that does not impose a significant additional duty in compliance with the facts that those vouchers must already be executed by the Members certifying that they are for official expenses. This motion says they would be executed under penalty of perjury.

The additional amendment would concede the point of order as it applies to the second paragraph on page 3 of the motion; but I think it would be beneficial to the Members to have that explanation there; and I would hope that the point of order would be withdrawn as to that point. . . .

THE SPEAKER:<sup>(8)</sup> The Chair is prepared to rule. The Chair is going to sustain the point of order. The gentleman from Pennsylvania has conceded one portion of the point of order, and with that the entire motion to recommit is subject to a point of order.

---

8. Carl Albert (Okla.).